THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.7305 OF 2006

ORAL ORDER:

By order dated 9.12.2002, the 2nd respondent made a determination under Section 7A of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, holding that the petitioner-company is liable to pay a sum of Rs.1,97,841/- towards the amount payable under the provisions of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 (for short "the Act").

It is not in dispute the said order was passed after hearing the petitioner and the order passed under Section 7A of the Act was also communicated to the petitioner. However, petitioner while pleading that certain discrepancies have crept in the said order, which require modification/clarification, preferred a review under Section 7B of the Act, on 9.01.2003. It is the case of the petitioner that the said review petition is still pending before the 2nd respondent, but, in the meanwhile, respondents have been taking coercive steps against the petitioner for recovery of the amount due as per the determination dated 9.12.2002. It is stated that on 10.01.2004 a notice was issued calling upon to pay the said amount, failing which, the petitioner will be committed to civil prison in execution of the Recovery Certificate. Hence, this writ petition seeking a declaration that the proceedings issued by the 1st respondent dated 10.01.2006 are arbitrary and illegal.

I have heard learned counsel for petitioner and learned Standing Counsel appearing for respondents.

At the outset, it is to be noted that the notice dated 10.01.2006 issued by the 1st respondent was only a show cause notice under which the petitioner was directed to appear before the 1st respondent on 7.02.2006 at 11.00 a.m., to show cause as to why it

should not be committed to civil prison in execution of the recovery certificate. In the circumstances, it is open to the petitioner to submit necessary explanation bringing to the notice of the respondents about the pendency of the review petition under Section 7B of the Act. Since the respondents have not yet passed any final order as such, the writ petition at this stage is premature and no mandamus as prayed for can be granted.

Accordingly, the writ petition is disposed of granting leave and liberty to the petitioner to submit appropriate explanation to the show cause notice dated 10.1.2006, within two weeks from today, in which event, the same shall be considered and appropriate orders be passed in accordance with law. Till such time, no coercive steps shall be taken against the petitioner on the basis of the determination made under Section 7A of the Act.

The Writ Petition is accordingly, disposed of. No costs.

_____

(G. ROHINI, J.)

13th April, 2006.
Kgr
Issue CC in two days.

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.7305 OF 2006

13th April, 2006.

Between:

M/s Isola Infotech India Pvt. Ltd.,
represented by its Director –
Goteti Yoganadh, S/o G.V. Siva Rao,
R/o Flat No.302, Varun Enclave,
Bhavani Nagar, Kapra, Hyderabad. .. Petitioner.

And

The Recovery Officer,
Employees Provident Fund
Organisation, Barkatpura,
Hyderabad and another. .. Respondents.